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owing to the nature of the consideration, equitable relief should nevertheless be granted. Within this limitation the present case directly falls.

CONSTITUTIONAL LAW — DUE PROCESS OF LAW — COMMITMENT OF DEFENDANT ACQUITTED BECAUSE OF INSANITY. — A defendant was acquitted of a charge of homicide because of insanity. Under a statutory provision the court thereupon committed him to an asylum. He applied for a discharge under a writ of *habeas corpus*. The superintendent of the asylum had adjudged him still insane. *Held*, that the writ be dismissed. *People ex rel. v. Baker*, 59 N. Y. Misc. 359 (Sup. Ct.). See NOTES, p. 218.

CONSTITUTIONAL LAW — PERSONAL RIGHTS: CIVIL, POLITICAL, AND RELIGIOUS — STATUTE COMPELLING COLOR LINE IN PRIVATE SCHOOLS. — A statute made it unlawful for any person, corporation, or association of persons, to maintain a school where persons of the white and negro races were taught. A domestic corporation was convicted under the statute. *Held*, that the defendant corporation has been deprived of no right guaranteed by the federal Constitution. *Berea College v. The Commonwealth of Kentucky*, U. S. Sup. Ct., Nov. 9, 1908. See NOTES, p. 217.

CONSTITUTIONAL LAW — POLICE POWER — PROHIBITION OF POSSESSION OF GAME DURING CLOSED SEASON. — A New York statute makes possession of grouse or plover during the closed season a misdemeanor, whether the birds were taken within or without the state. The relator was arrested for having in his possession grouse and plover taken in Russia and England, and the court refused to release him on *habeas corpus*. He appealed, alleging as error that the statute is unconstitutional in that it takes property without due process and is an unjustifiable interference with interstate and foreign commerce. *Held*, that the statute is a legitimate exercise of the police power, and is not invalidated by the fact that it may indirectly interfere with interstate and foreign commerce. *State of New York v. Hesterberg*, U. S. Sup. Ct., Nov. 2, 1908.

For a discussion of the principles involved, see 17 HARV. L. REV. 418.

CONSTITUTIONAL LAW — SEPARATION OF POWERS — EXCLUSION OF ALIENS AS A JUDICIAL QUESTION. — A resident alien attempted to return after a temporary absence from the United States. Under the Immigration Act of 1903, he was excluded on the ground that he was afflicted with a dangerous disease. He brought a writ of *habeas corpus*, contending that the act does not apply to aliens formerly domiciled in this country. *Held*, that the act does so apply. *In the Matter of Hermine Crawford alias Marie Mayvis*, 40 N. Y. L. J. 419 (Dist. Ct. N. Y., Oct. 28, 1908). See NOTES, p. 221.

CONTEMPT — ACTS AND CONDUCT CONSTITUTING CONTEMPT — REFUSAL TO TESTIFY BEFORE COMMISSIONER IN DEPORTATION PROCEEDINGS. — In deportation proceedings against a Chinese a commissioner ordered him to testify as a witness in the case. He refused so to testify. *Held*, that he is guilty of contempt of the district court which appointed the commissioner. *Tom Wah v. United States*, 163 Fed. 1008 (C. C. A., Second Circ.).

Aliens have no right to enter or remain in the United States. *Fong Yue Ting v. United States*, 149 U. S. 698. Their removal is, then, not punishment; and deportation proceedings are not criminal. *United States v. Hing Quong Chow*, 53 Fed. 233. Accordingly, a statute imposing on an alien the burden of proving his right to be in the United States has been upheld as establishing a rule of civil evidence. *In re Sing Lee*, 54 Fed. 334. And a statement by a Chinese that he entered the country unlawfully is not a confession of crime. *United States v. Hung Chang*, 134 Fed. 19. The court seems, therefore, clearly right in holding that the appellant here was not a party to a criminal suit and so had no constitutional right to refuse to testify. *United States v. Hung Chang, supra*. To render proceedings before a commissioner effective there must be some way of punishing one who thus wrongfully refuses to testify. It is well settled that the commissioner cannot punish for contempt. *In re Perkins*, 100 Fed. 950. The principal case, the first